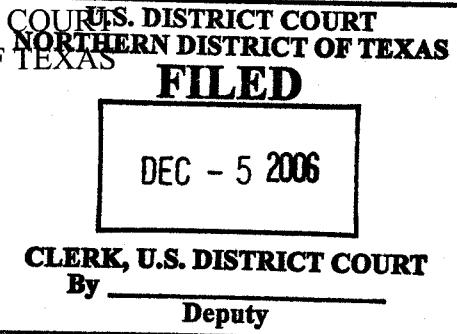


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



AARON LYNN KINCANON,

Petitioner,

v.

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:06-CV-0259

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**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
MOTION FOR NEW TRIAL and REINSTATING CASE ON DOCKET**

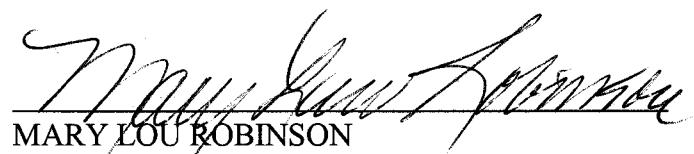
On October 13, 2006, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that petitioner's application for a writ of habeas corpus be dismissed as time barred. Objections to the Magistrate Judge's Report and Recommendation were filed on October 26, 2006. On October 30, 2006, the undersigned United States District Judge entered an Order adopting the Magistrate Judge's Report and Recommendation, and dismissing petitioner's application for habeas relief. Judgment was entered accordingly and both the Order and Judgment were filed of record October 31, 2006.

On November 13, 2006, the District Clerk's office received and filed petitioner's Motion to Alter or Amend Judgment which the Court treated as a Motion for New Trial. For the first time, petitioner cited authority for his position that his habeas application was not time barred. The Court finds petitioner's motion for new trial should be granted. Consequently, the Report

and Recommendation is ADOPTED and petitioner's motion for new trial is GRANTED. The Clerk is directed to reopen this case and reinstate this case on the Court's docket.

IT IS SO ORDERED.

ENTERED this 5th day of December 2006.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE